IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTEENTH DAY OF NOVEMBER

TWO THOUSAND AND SEVEN

:PRESENT:

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO : 24711 of 2006

Between:-

Sri Jonnakuti Nageshwar Rao S/o. Kondaiah
R/o.Rajampalem village, Gopalapuram Mandal, West Godavari District.

..... PETITIONER

AND

1.The District Collector West Godavari District, Eluru, West Godavari District.
2.The Divisional Panchayat Officer, Kovvur, West Godavari District.
3.The Revenue Divisional Oficer, Jangareddygudem, West Godavari District.
4.The Mandal Revenue Officer, Gopalapuram Mandal, West Godavari District.
5.The Gram Panchayat, Rajampalem, Rrep. by its Secretary, Rajampalem Village, Gopalapuram Mandal, West Godavari District.
6.Sri Madiki Jayaraju S/o.Venkanna, R/o. Rajampalem Village, Gopalapuram Mandal, West Godavari District.
7.Sri Galkinki Gannaiah s/o. Veeraiah, R/o. Rajampalem Village, Gopalapuram Mandal, West Godavari District.
8.Sri Konde Krishna S/o. Ramaiah, R/o. Rajampalem Village, Gopalapuram Mandal, West Godavari District.
9.Sri Didde Gangaraju s/o. China Nagaiah
R/o. Rajampalem Village, Gopalapuram Mandal, West Godavari District.
10.Sri Nuthangi Lakshmaiah S/o. Pullaiah
R/o. Rajampalem Village, Gopalapuram Mandal, West Godavari District.
11.Sri Madiki Venkateshu S/o. Venkanna
R/o. Rajampalem Village, Gopalapuram Mandal, West Godavari District.
12.Sri Chapala Srinu S/o. Daveedu
R/o. Rajampalem Village, Gopalapuram Mandal, West Godavari District.
13 Sri Korukollu Subba Rao S/o. Venkaiah
R/o. Rajampalem village, Gopalapuram Mandal, West Godavari District.
14.Sri Korukollu Nageshwar Rao S/o. Subba rao
R/o. Rajampalem village, Gopalapuram Mandal, West Godavari District.
15.Sri Lagu Prabhakar Rao S/o.Manikyam, R/o.Rajampalem Village, Gopalapuram Mandal, West Godavari District.
16.Sri Manda Abbulu S/o. Pentaiah, R/o.Rajampalem Village, Gopalapuram Mandal, West Godavari District.
17.Sri Pulapalli Babu S/o.Venkateshu
R/o. Rajampalem village, Gopalapuram Mandal, West Godavari District.
18.Sri Maddala Bhaskar Rao S/o. Gonthaiah
R/o. Rajampalem Village, Gopalapuram Mandal, West Godavari District.
19.Gunnuri Venkatrao S/o. Veeraiah, R/o. Rajampalem Village, Gopalapuram Mandal, West Godavari District.
20.Sri Badampuri Adamu S/o.Nagaiah, R/o.Rajampalem Village, Gopalapuram Mandal, West Godavari District.
21.Sri Vengala Subba Rao S/o.Mandaiah
R/o.Rajampalem village, Gopalapuram Mandal, West Godavari District.
22.Sri Gunnuri Papa W/o.Venkatrao
R/o.Rajampalem village, Gopalapuram Mandal, West Godavari District.
23.Sri Undurthi ramakrishna S/o. Subba Rao

R/o.Rajampalem Village, Gopalapuram Mandal, West Godavari District.
24.Sri Kasani Chandra Rao S/o.Subba Rao
25. Sri Kasani Narayan Rao S/o.Subba Rao
26. Sri Manda Anjaiah S/o.Pentaiah
27.Sri Chelimi Nageshwar Rao S/o. Mavullamma
28.Sri Kakulapati Venkatrao S/o.Narsaiah
29.Sri Jonnakuti venkatrao S/o. Chandraiah
30.Sri Pulapalli Subba Rao S/o.Brahmaiah
31.Sri Guda Surya Rao S/o. Venkaiah
32.Sri Muppidi Nageshwar Rao S/o. Ramaiah
33.Sri Kanumuri Venkatesh S/o. Subbaiah
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34.Sri Bheemadolu Venkatrao S/o. Gangaiah
35.Sri Gandipamu Lazaru S/o.Mahalakshmaiah
36.Sri Madiki ramulu S/o.Subbaiah
37 Sri Songa Venkatgeshu S/o.Subba Rao
38 Sri Ainaparthi Durga Rao S/o.Boodiah
39 Sri Jonnakuti Subba Rao S/o.Chandraiah
(All RR. 6 to 39 all are Labours and are R/o. Rajampalem Village, Gopalapuram Mandal, West Godavari District).

.....RESPONDENTS.

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any appropriate writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the Official Respondents No.1 to 5 having conducted auction in respect of the Schedule Land situated in Sy.No.86 of Devarkonda of Rajampalem Village, Gopalapuram Mandal, West Godavari District for a period of Three years pertaining to the period 2004-2007 and having delivered possession to the petitioner and also having received the lease amount from the petitioner, in not taking any action against the illegal acts of the official respondents No.6 to 39 trying to interfere in the peaceful possession and enjoyment of the petitioner over the schedule land and damage the property thereon, as illegal, arbitrary, against all cannons of fair play and natural justice and violative of Constitutional provisions besides contrary to the provisions of the A.P. Panchayat Raj Act and the Rules governed thereon and consequently direct the Respondents not to interfere with the peaceful possession and enjoyment of the petitioner over the Schedule Land till the expiry of lease period of three Years from 2004-2007.

The petition coming on for hearing, upon perusing the petition and the affidavit filed in support there of and upon hearing the arguments of SRI SITA RAM CHAPARLA, Advocate for the Petitioner and of the Govt Pleader for Panchayat Raj and Revenue on behalf of Respondent Nos. 1 to 4 and of Sri M. Prabhakar Rao-SC on behalf of respondent No. 5, the Court made the following **ORDER :-**

Part of the land in Sy.No. 86, Devarakonda Village, Gopalapuram Mandal, West Godavari District was auctioned by the Secretary, Gram Panchayat in favour of the petitioner for the

purpose of harvesting Cashew Nut and Bamboo tress. Another part of the same survey number appears to have been the subject matter of issuance of pattas by the 4th respondent-Mandal Revenue Officer, Gopalapuram in favour of some of the party respondents in the writ petition. On account of the apparent or contrived confusion as to the extent of land and the entitlement of the petitioner on the one hand and some of the party respondents on the other, there are allegations of trespass by the party respondents into the land which was auctioned in favour of the petitioner.

On instructions, the learned Government for Revenue states that the entire extent of land in Sy.No. 86 is Government poramboke in which social forestry has been introduced and a number of trees are in existence. From the assertion by the learned Government Pleader for revenue, it would appear that part of the land in Sy.No. 86 was entrusted to the custody of the Rajupalem Gram Panchayat for safe keeping and maintenance. If this be true, the Gram Panchayat may have no authority or jurisdiction to auction the rights to harvest either Bamboo or Cashew Nuts in any part of the land in Sy.No. 86. In any event, the conflict between the petitioner and the party respondents engendered as a consequence of the independent assignemtn of rights by the Panchayat Secretary on the one hand and the Mandal Revenue Officer on the other, could have been avoided.

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The 5th respondent-Gram Panchayat through its Secretary has filed a counter-affidavit. It is contended by the answering respondent that under an afforestation scheme, the forest department had raised cashew nut trees and other fruit bearing trees in R.S.No. 130 to an extent of Ac.80-00 and in R.S.No. 86 to an extent of Ac. 94-00, in 1977 and handed it over to the Gram Panchayat. Accordingly from 1985-86 onwards, the crop of those trees are being sold as per the upset price fixed by the District Panchayat Officer from time to time and the sale proceeds are being utilized for the developmental activities of the village. According to the counter, the writ petitioner was the highest bidder for the year 2004-2007 for the trees in R.S.No. 86, he has paid the entire bid amount and the trees were handed over to him in 2004 itself. In para 3, the Panchayat Secretary states that on 10-3-2005 some Harizans and people belonging to the Backward Classes of Rajupalem villagers forcibly occupied an extent of 34-00 acres of land towards the southern side of the land in R.S.No. 86 by cutting the existing trees. After initial executive action failed, the Mandal Revenue Officer, Gopalapuram filed a police complaint against the illegal encroachers on which the police registered Crime No. 45 of 2005 on the file of P.S. Gopalapuram and the case is pending before

the Judicial First Class Magistrate, Kovvur.

From the averments in the Panchayat Secretary's counter it would appear that the Gram Pachayat implies that the Mandal Revenue Officer had no authority, power of jurisdiction to have taken any action that would impact the Gram Panchayat's authority over the use of the land.

In the context of the current state of the record, which has been adverted to above, it is the solemn obligation of the 1st respondent-District Collector to arbitrate and sort out the turn battle between the Panchayat Secretary and the Mandal Revenue Officer. These two authorities have induced citizens to legitimate expectations of enjoyment of Government land and to be at loggerheads with each other. Instead of the State maintaining peace and tranquility, by their respective conduct the Mandal Revenue officer and the Panchayat Secretary appear to have become the instigators of disharmony in the village over which the District Collector has overall administrative power.

In the circumstances and in the context of the studied silence of the 1st respondent-District Collector for over a year, the 1st respondent shall file a counter-affidavit by 19-11-2007.

List on 19-11-2007.

The learned Government for Revenue has noted this order and has undertaken to communicate to the 1st respondent his obligations under this order. If no counter-affidavit is filed by 19-11-2007 the 1st respondent shall be present in the Court at 10-30 AM on 19-11-2007.

ASSISTANT REGISTRAR

// TRUE COPY //

for ASSISTANT REGISTRAR

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To

1.The District Collector West Godavari District, Eluru, West Godavari District.

(By Speed Post with a copy of Affidavit & Petitions)

2.The Divisional Panchayat Officer, Kovvur, West Godavari District.

3.The Revenue Divisional Oficer, Jangareddygudem, West Godavari District.

4.The Mandal Revenue Officer, Gopalapuram Mandal, West Godavari District.

5.The Secretary, Gram Panchayat, Rajampalem Village,
Gopalapuram Mandal, West Godavari District.

(Addressee Nos. 2 to 5 by RPAD)

6.Sri Madiki Jayaraju S/o.Venkanna
7.Sri Galkinki Gannaiah s/o. Veeraiah
8.Sri Konde Krishna S/o. Ramaiah
9.Sri Didde Gangaraju s/o. China Nagaiah
10.Sri Nuthangi Lakshmaiah S/o. Pullaiah
11.Sri Madiki Venkateshu S/o. Venkanna
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29.Sri Jonnakuti venkatrao S/o. Chandraiah
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32.Sri Muppidi Nageshwar Rao S/o. Ramaiah
33.Sri Kanumuri Venkatesh S/o. Subbaiah
34.Sri Bheemadolu Venkatrao S/o. Gangaiah
35.Sri Gandipamu Lazaru S/o.Mahalakshmaiah
36.Sri Madiki ramulu S/o.Subbaiah
37 Sri Songa Venkatgeshu S/o.Subba Rao
38 Sri Ainaparthi Durga Rao S/o.Boodiah
39 Sri Jonnakuti Subba Rao S/o.Chandraiah

(Addressee Nos. 6 to 39 all are Labours and are R/o. Rajampalem Village,
Gopalapuram Mandal, West Godavari District).

40.Two CCs to the Govt. Pleader for Revenue, High Court of A.P., Hyderabad.

(By Special Messenger).

41.Two CCs to the Govt. Pleader for Panchayat Raj, High Court of A.P.,
Hyderabad.
42.One CC to Sri Sitaram Chaparla, Advocate(O)UC).
43.One CC to Sri M. Prabhakar Rao, Advocate(OPUC).
44.One spare copy.

TKK

HIGH COURT

GR.J

DT.13-11-2007.

ORDER

W.P.NO. 24711 of 2006.

D I R E C T I O N.

DRAFTED BY TKK
DT.14-11-2007.

HIGH COURT

GR.J

DT.13-11-2007.

Note :- List on 19-11-2007.

ORDER

W.P.NO. 24711 of 2006.

DIRECTION.